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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/933,602	REARDON, KEVIN J.
	Examiner	Art Unit
	Andre Boyce	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 March 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This Final office action is in response to Applicant's amendment filed March 22,

2006. Claims 2, 4, 8, 12 and 13 have been amended. Claims 1-13 are pending.

2.   The previously pending objections to the drawings have been withdrawn.

The previously pending objections to the claims have been withdrawn.

The previously pending rejections to claims 8-10 and 13 under 35 U.S.C. 112,

second paragraph have been withdrawn.

3.   Applicant's arguments filed March 22, 2006 have been fully considered but they

are not persuasive.

Claim Rejections - 35 USC § 102

4.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

5.   Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated

by Kalyan et al (USPN 6,826,538).

As per claim 1, Kalyan et al disclose a method for analyzing a business that

provides deliverable end-user products to consumers (i.e., value management

pricing, column 2, lines 46-48), said end-user products including components

wherein each deliverable product and each component have a perceivable

cost and consumer value (i.e., value management, wherein prices of

components that make up the product, column 2, lines 61-63), said method

comprising the steps of: a) obtaining Average Sales Price (ASP) trend data for

a deliverable end-user product provided by said business and tracking

changes of said trend data over a period of time, said period divided into one

or more time intervals (i.e., pricing process in terms of input, including price

offered for each standard product for each time horizon of interest, column 7,

lines 54-60); b) obtaining ASP trend data for a component used in said

deliverable end-user product and tracking changes of said trend data for said

component over said period of time (i.e., each component has a determined

value/price, used to calculate the value/price of the product, column 3, lines

51-57, wherein output includes the value of each critical component for each

time horizon, column 7, lines 60-63 and figure 2), c) generating a data

structure including elements for characterizing trend data as meeting certain

performance criteria (i.e., value of each critical component for each time

horizon, column 7, lines 60-63 and figure 2); d) mapping said trend changes for

each period to said elements in said data structure (i.e., component values,

known as minimum acceptable values (MAV), vary as a function of supply

material for a particular horizon, column 8, lines 41-42 and figure 4); and, e)

performing analysis of said elements for a component and deliverable product

in each time interval (i.e., component values used to price non-standard

products based on supply and demand, column 7, lines 1-3), said elements

indicating potential corrective action with respect to a value or cost for said

component or deliverable product (i.e., calculated components being the basis

of a variety of pricing decisions, including oversupply, column 7, lines 13-17).

As per claim 2, Kalyan et al disclose said data structure includes a matrix for

characterizing relationships between ASP trends of deliverables and ASP trends

of components (i.e., component values, known as minimum acceptable values

(MAV), vary as a function of supply material for a particular horizon, column 8,

lines 41-42 and figure 4) (i.e., component values used to price non-standard

products based on supply and demand, column 7, lines 1-3), one or more

elements of said matrix characterizing either or both said deliverable or component

ASP trends as being equal or to or above a base level between successive time

intervals (i.e., component that has a component value equal to or above 0, column

7, lines 13-17).

As per claim 3, Kalyan et al disclose said base level is zero, said one or more

elements characterizing said trends as being equal to or above said base level

thereby defining a stability sector (i.e., component that has a component value

equal to 0 indicates an oversupply of the component or lack of demand, wherein

values above 0 indicate a level of demand for the component, thus defining a

minimum acceptable value for each component, column 7, lines 13-27).

As per claim 4, Kalyan et al disclose one or more elements of said matrix

characterizes either or both said deliverable or component ASP trends as being

below a base level while remaining flat, increasing or decreasing between

successive time intervals (i.e., components with a 0 component value indicates an oversupply of the component or lack of demand, wherein if all components have 0 values, then there are no critical components, column 7, lines 13-19).

As per claim 5, Kalyan et al disclose elements of said matrix provide an estimation of profit potential for a business operating at an indicated time interval in said stability sector by managing the cost or value for that deliverable and component (i.e., MAV curve can be graphed as a function of supply of a critical component, wherein the area under the curve is the expected revenue from the available supply of the component, column 8, lines 41-46).

As per claim 6, Kalyan et al disclose said step e) of performing an analysis includes the steps of: improving a value of the deliverable and identifying components that assist in said improving (i.e., calculating component values for various input values, including prices and demand probabilities, column 6, lines 33-48); and maintaining the value of said deliverable in said stability sector pending improvement of said value (i.e., maintaining prices until component values rise above MAV, thus designating those components as critical components, column 7, lines 14-21).

As per claim 7, Kalyan et al disclose repeating step b) though step e) utilizing a different component, said analysis revealing which component drives value and what customers perceive as value from the deliverable (i.e., method moves to the next component to calculate a new component value, column 6, lines 13-16).

Claims 11 and 12 are rejected based upon the rejection of claims 1 and 2,

respectively, since they are the program storage device readable by a machine

claims, corresponding to the method claims.

Claim Rejections - 35 USC § 103

6.   Claims 8-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kalyan et al (USPN 6,826,538), in view of Fields et al (USPN 5,459,656).

As per claim 8, Kalyan et al disclose method for assessing in real-time a

business plan for a business that provides deliverable end-user products to

consumers (i.e., value management pricing, beneficial in product design, column

2, lines 46-48 and 52-55), said end-user products including components wherein

each deliverable product and each component have a perceivable cost and

consumer value (i.e., value management, wherein prices of components that

make up the product, column 2, lines 61-63), said method comprising the steps of

a) providing a business plan associated with the selling of a deliverable product in

the market, said plan organized as a series of successive time intervals, with each

said interval indicating hypothetical movement of profitability of said deliverable

product (i.e., linear price-demand curve for a product, wherein the curve can be

used to determine a total potential revenue that could be realized, column 10, lines

28-33); b) generating a data structure including elements for characterizing trend

data as meeting certain performance criteria (i.e., value of each critical component

for each time horizon, column 7, lines 60-63 and figure 2), each said element

indicating one or more corrective actions that may be performed with respect to a

value or cost for a deliverable or one of its components (i.e., calculated

components being the basis of a variety of pricing decisions, including

oversupply, column 7, lines 13-17); and c) obtaining actual ASP trend data for said

deliverable and component at a current sampling interval (i.e., analyzing demand

from a history database in order to obtain a relationship between price charged and

demand, column 13, lines 48-51).

Kalyan et al does not explicitly disclose c) mapping said actual ASP trend data

to a corresponding element in said data structure; d) comparing said mapped

element with a hypothetical movement defined for the deliverable product and

component according to said business plan at that time interval; and e) making

corrective changes with respect to a value or cost for said component or

deliverable according to the comparison. Fields discloses c) mapping said actual

data to a corresponding element in said data structure (i.e., actual demand

mapped against threshold limits, column 1, lines 3-5); d) comparing said mapped

element with a hypothetical movement defined for the deliverable product and

component according to said business plan at that time interval (i.e., monitoring

actual demand against projected demand, column 10, lines 50-53); and e) making

corrective changes with respect to a value or cost for said component or

deliverable according to the comparison (i.e., revising near future-intervals to

reflect detected deviations, wherein the percent differential is compared to

threshold limits in order to determine the value to be projected over the remaining

intervals, column 11, lines 1-25). Both Kalyan et al and Fields et al are concerned with analyzing supply and demand of products, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include mapping said actual ASP trend data to a corresponding element in said data structure; comparing said mapped element with a hypothetical movement and making corrective changes in Kalyan et al, as seen in Fields et al, in order to effectively detect variations between actual and projected values (see Fields et al, column 10, line 53), thus making the Kalyan et al pricing method more robust.

As per claim 9, Kalyan et al disclose said step c) further comprises the step of defining for said business plan a hypothetical Average Sales Price (ASP) trend for each said deliverable product (i.e., pricing process in terms of input, including price offered for each standard product for each time horizon of interest, column 7, lines 54-60) and a component in each successive time interval (i.e., each component has a determined value/price, used to calculate the value/price of the product, column 3, lines 51-57, wherein output includes the value of each critical component for each time horizon, column 7, lines 60-63 and figure 2).

Kalyan et al does not explicitly disclose said step d) further includes comparing said actual ASP trend data with said hypothetical Average Sales Price (ASP) trend at said time interval. Fields discloses monitoring actual demand against projected demand, column 10, lines 50-53. Both Kalyan et al and Fields et al are concerned with analyzing supply and demand of products, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include

comparing said actual trend data with said hypothetical trend data at said time interval in Kalyan et al, as seen in Fields et al, in order to effectively detect variations between actual and projected values (see Fields et al, column 10, line 53), thus making the Kalyan et al pricing method more robust.

As per claim 10, Kalyan et al disclose said step c) of obtaining actual data is performed when valid ASP trend data is available (i.e., demand from a history database, column 13, line 51).

Claim 13 is rejected based upon the rejection of claim 8, since it is the program storage device readable by a machine claims, corresponding to the method claims.

Response to Arguments

7.   In the Remarks, Applicant argues that Kalyan does not teach obtaining ASP trend data for a component used in the deliverable end-user product and tracking changes of the trend data for the component over the period of time. The Examiner respectfully disagrees. While Applicant points to the distinction between value and price disclosed in Kalyan, Kalyan also discloses that "[a]t times the two terms may be used interchangeably, but the context should make clear which meaning is in force" (column 3, lines 44-46). As such, Kalyan indeed discloses obtaining ASP trend data for a component used in the deliverable end-user product and tracking changes of the trend data for the component over the period of time, as seen in the above rejection.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

date of the advisory action. In no event, however, will the statutory period for reply

expire later than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andre Boyce whose telephone number is (571) 272-

6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-

8300.

Information regarding the status of an application may be obtained from the

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assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-

272-1000.

adb
June 7, 2006

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